



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Paul L. HERMONAT

Title: Adeno-Associated Virus AAV Rep78 Major Regulatory Protein Mutants  
Thereof and Uses Thereof

Appl. No.: 09/693,908

Filing Date: 10/23/2000

Examiner: B. Puri

Art Unit: 1633

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**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231

Sir:

In response to the restriction requirement set forth in the Office Action mailed October 1, 2001, Applicant hereby provisionally elects Group II, Claims 1-20, drawn to Rep78 mutants and fusion proteins derived from different AAV Rep78 mutants, a method of selection of mutants and pharmacological composition for mutant or fusion proteins, for examination, with traverse. It is believed that no fee is due, but if such fee is due, please consider this paragraph a the request for the extension of time and an authorization to withdraw the appropriate fee under from Deposit Account No. 19-0741.

The Examiner has required restriction between Claims 1- 20 (GroupII), drawn to AAV Rep78 mutants, fusion proteins containing the AAV Rep 78 mutants and a pharmaceutical composition containing the AAV Rep 78 mutants. Restriction was required because the Examiner believed that the products of each of the Groups have separate and distinct methods of use and modes of action. Applicant respectfully disagrees with the restriction of Claims 21-39 (Group IV) directed to a DNA sequence encoding at least one AAV Rep 78 mutant or a fusion protein according to claim 1. These claims are directed to DNA sequences that encode the AAV Rep 78 mutants claimed in Group II. A search of the invention of Group II will also provide a search of the corresponding DNA sequence of Group IV.

Applicants respectfully submit that the pending claims do not require restriction because examination of the AAV Rep 78 mutants and fusion proteins containing the mutants would not require additional searches or otherwise place a serious burden on the examiner to search claims 21-39 of Group IV. See MPEP 803.

As Group VI is directed to methods of selecting AAV Rep 78 mutants, it is believed that searching claims 44 and 45 also would not place an undue burden on the Examiner.

Applicant requests that the Examiner reconsider the present restriction requirement and search the claims of Groups II, IV and VI as they are directed to AAV Rep 78 mutants, fusion proteins containing the mutants and pharmaceutical compositions containing the mutants, DNA sequences encoding the mutants and methods of selecting the mutants. Applicants, of course, reserve the right to file one or more divisional applications covering the subject matter of the non-elected claims.

Respectfully submitted,

Date November 1, 2001

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